

**Galway Refugee Support Group (GRSG)  
Ireland**

**Submission to the United Nations Universal Periodic Review**  
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**I. Background of Galway Refugee Support Group (GRSG)**

Galway Refugee Support Group has been working with the refugee, immigrant and asylum seeker community in Galway since 1998. GRSG's vision is 'the creation of a just and equal society where people seeking asylum have access to a fair and transparent procedure, appropriate services, support and resources; and where those granted asylum can fully participate in all aspects of Irish society.' GRSG not only promotes awareness of the needs and concerns of refugee and asylum seeker communities but also provides outreach and advocacy to asylum seekers living in direct provision.

**II. Promotion & Protection of Human Rights on the Ground**

**A. Cooperation with Human Rights Mechanisms**

**1. Scope of International Obligations**

Ireland is party to many international human rights instruments many of which overlap in the fundamental human rights that they guarantee. A few of them are: Universal Declaration of Human Rights (UDHR), International Covenant on Civil and Political Rights (ICCPR), International Covenant on Economic, Social and Cultural Rights (ICESCR), International Convention on the Elimination of Racial Discrimination (CERD), and Convention on the Rights of the Child (CRC). Ireland is also party to the UN Convention Relating to the Status of Refugees.

**2. Constitutional and Legal Framework**

***Refugee Act, 1996***

The Refugee Act 1996, as amended by the Immigration Acts 1999 and 2003, governs the legal process by which asylum applications are processed. It should be noted that the policy of Direct Provision and Dispersal that governs the daily lives of applicants are not based on this or any other legal framework and its basis is purely on policy, not law.

***Proposed Immigration, Residence and Protection Bill 2010***

Immigration, Residence & Protection Bill has been proposed several times over the last decade, the latest version of which was under discussion in 2010 until the Irish Parliament was dissolved in early 2011. The proposed Immigration, Residence and Protection Bill 2010 includes provisions which would legalise summary removal without access to a fair hearing of migrants who are in the state without the permission of the Minister of Justice and would cease to provide prior notice of removal to the individual concerned, denying them of the opportunity to lodge an appeal. These provisions ignore the UN Human Rights Committee's observations under ICCPR in 2008 which stated that the "State party should amend the Immigration, Residence and Protection Bill 2008 to outlaw summary removal," and contradicts the Irish Supreme Courts judgement in the cases of *Oguekwe v. Minister for Justice, Equality, & Law Reform*, and *Dimbo v. Minister for Justice, Equality, & Law Reform* which ruled that constitutional rights and the ECHR must be considered

prior the arrest, detention and removal of individuals that are perceived to be unlawfully present in the State.

### **3. Institutional and Human Rights Infrastructure**

In recent years the human rights infrastructure has been undermined by closure of agencies such as National Consultative Committee on Racism and Interculturalism (NCCRI) and Combat Poverty Agency, and the decision of the government in 2009 to no longer undertake the implementation of the National Action Plan Against Racism. Budget cuts have also had a severe impact. In 2009, the Equality Authority and the Irish Human Rights Commission suffered severe cuts in government funding of 43% and 32% respectively.

### **4. Policy Measures**

Ireland's social inclusion, anti-poverty and intercultural strategies, as well as the Office for the Minister for Integration do not currently cover asylum seekers within their remit. Application of these policies to asylum seekers could vastly improve the lives of those in direct provision. However, the reality with which they live is made invisible because their deprivation is not reflected in statistics like the EU Survey on Income & Living Conditions on child poverty from which they are excluded since they are not considered to be living in a household.

In addition, Ireland is the only EU member state not party to the EU Council Directive 2003/9/EC (27 Jan. 2003) laying down the minimum standards for the reception of asylum seekers.

## **B. Implementation of Human Rights Obligations toward Asylum Seekers**

In Ireland, asylum seekers and their children, both foreign-born and Irish-born, are currently forced to live in conditions which amount to segregation in direct provision centres, frequently located in remote areas, and which, combined with poverty and discrimination which prevent them from participating in the local community, is in effect, enforced social exclusion. Forced, long-term unemployment and restricted access to higher education result in social isolation which in turn lead to physical and mental ill health, institutionalisation and poverty trap.

### **1. Right to Adequate Standard of Living & Social Security**

The International Covenant on Economic, Social and Cultural Rights 1966 (ICESCR) specifically includes in article 11(1), the right to adequate housing as part of the right to an adequate standard of living. The Committee on ICESCR, in its General Comment 4, interprets adequate housing to be not merely a roof over one's head but housing in environmentally safe locations that facilitate access to healthcare services, schools, and other facilities that avoid excessive demands on budgets of impoverished households. However, for direct provision residents living in overcrowded rooms in direct provision centres often located in remote areas, this requirement is not fulfilled. The housing deprivation which they experience results from the restrictions that prevent families from seeking suitable accommodation and the lack of privacy and space has had negative psychological effects on both adults and children, leading to stress-related illnesses. Moreover, it also has long-term implications on a child's physical and psychological development, and particularly on the ability to learn because many find it hard to study in a noisy, overcrowded environment.

Access to social welfare payments in Ireland is contingent on satisfying the habitual residence condition which stipulates that an individual must have been living in Ireland for a certain period of time, initially set at a minimum of two years but is now not a fixed period of time, before they are eligible for welfare payments. According to the *Guidelines for Deciding Officers* issued in 2008 by the Department of Social and Family Affairs (DFSA), “an asylum-seeker...cannot satisfy either the habitual residence condition or the normal residence condition for any DFSA payments.” Time spent in the asylum process does not count towards the residence requirement although as applicants, asylum seekers are legally resident in the country. This translates into poverty not only for asylum seekers (who are only entitled to a weekly payment of €19.10 per adult and €9.60 per child) but also those who have recently been granted status since they cannot access social welfare payments like child benefit and rent allowance. Furthermore, the habitual residence condition poses particular difficulties for migrant women who find themselves unable to escape domestic violence where their immigration status is linked to that of the abusive spouse and therefore they are unable to meet the habitual residence condition in their own right.

## **2. Right to Access Higher Education**

Although the Universal Declaration of Human Rights states that “higher education shall be equally accessible to all,” and Irish laws such as the Equal Status Act, 2000 prohibit discrimination in access to educational establishments, asylum seekers do not currently have the right to access post-secondary education. Those granted “leave to remain” status may access higher education but are often financially unable to do so since they must pay the much higher international student rate until they have been legally resident in the State for three years.

The lack of clear, consistent information regarding access to higher education, along with lack of standardised admissions policies among educational institutions is a problem for both prospective non-Irish students and service providers. There is a lack of consistency and clarity in the assessment of foreign degrees and qualifications due to a lack of standardised mechanisms for the recognition of prior learning.

## **3. Right to Work**

Ireland is the only EU member state with a complete ban on the right to work for asylum seekers, even though other in other EU States, right to work is granted after a certain period of time.

## **4. Right to participate in the Public Life of the Community**

The very nature of direct provision centres makes them means by which asylum seekers and their children are segregated from local Irish communities they wish to integrate into. This segregation and the living standards imposed under direct provision amounts to discrimination.

In particular, children living in direct provision centres feel that the fact that they live there labelled them negatively as asylum seekers and made them more prone to isolation from their classmates because they cannot socialise with other children in the same way as a child living in an ordinary household setting would be able to because asylum-seeking children cannot invite their friends back to the centres to play after school, and thus cannot reciprocate invitations to play or to birthday parties even if their friends include them in such activities. Moreover, the deprivation, material and

psychological, that children experience in direct provision develops in them a negative sense of self-worth when they see how much more Irish children have and are entitled to in terms of the rights that they have as children.

## **5. Right to Life / Health**

### ***Physical ill health:***

Malnutrition within the direct provision system is a serious concern especially since one is given no choice in when or what to eat because residents are not allowed to cook for themselves, and parents do not have a choice regarding when their babies are weaned onto solid food since they are denied access to baby formula once the child turns 1. Not only are the various dietary and cultural needs not accommodated for but the quantity and quality may be inadequate leading to issues of inadequate nutrition which asylum seekers cannot easily supplement by buying their own food, given financial constraints. Malnutrition, particularly of children and expectant mothers is a real concern, as is the hunger of adults resulting from the rationing of the food they buy with their very limited financial resources to supplement accommodation centre food in an effort to provide for the needs of their children before those of the adults. Access to adequate food in the context of direct provision is one that urgently needs to be addressed since it has implications for the enjoyment of the right to health and the right to life.

Most people in direct provision have access only to basic health services and very often, access is hindered by language barriers as well as the fact that some services may be physically inaccessible from their accommodation, especially given the fact that limited funds means access to transport to and from health services is limited. The combination of ill health, along with income and food poverty, can have disastrous effects for a family with limited resources.

### ***Mental Health Issues:***

In addition to the trauma caused by events in the country of origin, stress related to the uncertainty inherent in the often very lengthy asylum process and living conditions in direct provision, along with isolation resulting from restrictions on access to higher education and enforced long-term unemployment aggravate mental health problems among asylum seekers.

It has been reported in the press that a child with psychological and medical issues was deported at the end of October 2010, despite appeals from the child's doctor, psychologist and support worker from the Irish Society for the Prevention of Cruelty to Children.

### ***Medical Referees engaged by Reception & Integration Agency:***

Medical referees are contracted by the Reception & Integration Agency (RIA) to review the medical records of direct provision residents in relation to whether residents can or should not be transferred to other centres. According to the testimony of a doctor working with direct provision residents given at a hearing of the Oireachtas Committee for Health and Children in October, 2010, the review of the medical referee is entirely paper-based so those who are entrusted with an important decision which could have a great impact on the patient's well-being, actually never examine or speak to the patient. Doctors who actually see the patients and are therefore in a position to comment on their patients' conditions are asked to briefly

summarise their patients' conditions in writing, however complex the situation might be. The doctor working with residents in a centre in Mosney was asked to assess and summarise 47 cases within 3 working days and his request for more time was denied. He has stated that he has requested a meeting with RIA's medical referees so that he could discuss in detail the concerns he has about his patients but that he had not had access to them.

RIA in their written responses to the questions by the Oireachtas Committee for Health and Children, have stated that their "referee's advice, even if contrary to that of the treating doctor, takes precedence."

## **6. Right to administration of Justice**

Asylum seekers in direct provision are vulnerable to intimidation and abuse due to lack of an independent complaints mechanism within direct provision accommodation.

### **RECOMMENDATIONS**

- Need to include asylum seekers in social inclusion, integration and intercultural strategies with the principle of anti-discrimination at its core. Need to ensure that strategies and organisations working with asylum seekers, refugees and migrants are adequately resourced to ensure their effectiveness.
- Ireland, which is currently the only EU member state that is not signatory to the EU Council Directive 2003/9/EC (27 Jan. 2003) laying down the minimum standards for the reception of asylum seekers, should sign the Directive.
- Allow asylum seekers the right to access higher education and employment.
- Need to reform and seek alternatives to direct provision in consultation with stakeholders (asylum seekers, NGOs, housing experts, etc.) with due consideration for negative impacts / human cost of current system.
- Need for independent complaints mechanism in line with guidelines of the Ombudsman to be introduced within direct provision accommodation.
- More supports including preventive care with regard to both mental and physical health should be explored.
- Increase in self-catering accommodation to address food poverty and malnutrition
- Habitual Residence Condition (HRC) should be repealed in light of the fact that it restricts access to social welfare of asylum seekers and refugees recently granted status because time spent in the asylum process does not count toward HRC. It also poses difficulties for migrant women unable to escape domestic violence because their immigration status and therefore access to HRC is linked to that of the abusive spouse.

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